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*dr*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/821,027	03/19/97	VOIT	E 680-189

020277 LM01/0625  
MCDERMOTT WILL & EMERY  
600 13TH STREET NW  
WASHINGTON DC 20005-3096

EXAMINER

KWOH, J

ART UNIT	PAPER NUMBER
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2733

DATE MAILED:

06/25/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
08/821,027

Applicant  
VOIT et al.

Examiner  
Jasper Kwok

Group Art Unit  
2733



☒ Responsive to communication(s) filed on Mar 19, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-24 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-24 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4,7

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1, 6-8 and 21 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Jones et al.

Regarding claim 1, Jones et al disclose a method (i.e. fig. 5) comprising: determining quality of service (QoS) of a data packet network (500); comparing the QoS obtained in the determining step with a predetermined threshold level (i.e. 502, 504, 508); and in response to the result in the comparing step the predetermined threshold level is exceeded, routing the telephone call to a second station through the data packet network (506, 510).

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Regarding claims 6-8, Jones et al. disclose exchanging signaling messages between PSTN and Internet (fig. 3). It also determines if the destination is busy (fig. 8) and establishing a circuit in the data packet network (i.e. 610).

Claim 21 is an apparatus claim corresponding to method claim 1. Therefore, the means read on the steps as described above.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2-3 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al.

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Jones et al. disclose completing the call through an interexchange carrier switch network if said predetermined threshold level is not exceeded (fig. 5). In addition, entering a unique service code like \*82 is old and well known. It would have been obvious to an ordinary person skilled in the art at the time of the invention to allow the placement of call with this option in order to allow the network increased quality of service.

Claims 22-23 are apparatus claims corresponding to method claims 2-3 and 6. Therefore, the means read on the steps as described above.

6. Claims 4-5, 9-20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al. in view of Bartholomew et al.

Jones et al. measures round trip duration and ascertaining variance (fig. 9, 900, 902) and routing to the PSTN if a bandwidth level is below a predetermined threshold level (abstract). Bartholomew et al. teach an AIN (907), an ISCP (40), CPRs (i.e. 42, 43) for retrieving an interexchange carrier identity (col 4, ll. 25-58). Furthermore, input of unique service code, triggering the ISCP in response to an off hook condition, dialing area codes and telephone numbers, are all old and well known. In addition, it is a design choice to compare only if dialed information match information stored in the SCPR in order to conserve resources and only process information where it is the intended recipient. It would have been obvious to an ordinary person skilled in the art at the time of the invention to include the AIN, ISCP, CPRs, as well as the old and well known functions of the telephone system in the method of Jones et al. in order

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for improve the speed and quality of service in an intelligent peripheral communications network.

Regarding claim 24, Bartholomew et al. teach a processor (fig. 8) having router (i.e. 800) and packet assembler and disassembler (i.e. 835); and voice compression and decompression (i.e. 713).

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Mirashrafi et al. is cited to show selecting an Internet/PSTN changeover server for a packet based phone call.

b. Wheeler, Jr. is cited to show an intelligent peripheral in video dial tone network.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasper Kwoh whose telephone number is (703) 305-0101.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (703) 305-4729.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

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9. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

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**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

**Or:**

(703) 305-3988 (for informal or draft communications, please label

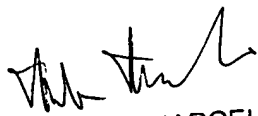
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Jasper Kwoh



June 19, 1999



MELVIN MARCELO  
PRIMARY EXAMINER